

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

RYAN C. CHRISTIAN,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD76831

Date: March 3, 2015

Appeal from:
Jackson County Circuit Court
The Honorable Peggy Stevens McGraw, Judge

Appellate Judges:
Division Four: Alok Ahuja, C.J., and Karen King Mitchell and Cynthia L. Martin, JJ.

Attorneys:
Ellen H. Flottman, Columbia, MO, for appellant.
Daniel N. McPherson, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

RYAN C. CHRISTIAN

Appellant,

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Jackson County

Appellant Ryan Christian was convicted following a jury trial of multiple counts of assault and armed criminal, arising out of an October 2008 incident in which he shot at five undercover Kansas City Police Department detectives. Christian testified in his own defense at his trial, claiming that he acted in self-defense. During his testimony, Christian acknowledged that he had previously been convicted of first-degree assault and armed criminal action.

Christian filed a motion for post-conviction relief under Supreme Court Rule 29.15, in which he alleged that his trial counsel was ineffective for failing to question prospective jurors whether Christian's prior felony convictions would cause them to believe that he was more likely to be guilty of the charged offenses.

The circuit court denied Christian's post-conviction relief motion following an evidentiary hearing. Although the circuit court found that trial counsel performed inadequately in failing to question the jury panel concerning how they would view Christian's prior convictions, the court concluded that Christian had not proven that counsel's deficient performance prejudiced him. Christian appeals.

AFFIRMED.

Division Four holds:

Even if we assume that the performance of Christian's counsel during voir dire was deficient, the circuit court did not clearly err in concluding that Christian had failed to establish prejudice, and that he was therefore not entitled to post-conviction relief.

Christian argues that, because counsel's error potentially affected the composition and impartiality of the jury, prejudice should be presumed. A presumption of prejudice only applies where counsel performs inadequately during voir dire, however, if the movant shows that a biased venireperson ultimately served as a juror. Christian has at best raised the *possibility* that

additional questioning of the venire panel *may* have revealed juror bias; he has produced no evidence that any juror who ultimately served actually believed that his prior convictions constituted evidence of guilt. No presumption of prejudice applies in this case.

Deficient performance by counsel will justify a new trial only where the movant establishes a reasonable probability of a different outcome if counsel had acted competently. The circuit court did not clearly err in concluding that Christian had failed to satisfy this standard. The jury was instructed that they could weigh Christian's prior convictions only to assess his credibility, and we presume that the jury followed this instruction. In addition, the evidence of Christian's guilt was overwhelming. Because Christian did not meet his burden of proving prejudice by a preponderance of the evidence, the circuit court did not clearly err in denying his motion for post-conviction relief.

Before: Division Four: Alok Ahuja, C.J., and Karen King Mitchell and Cynthia L. Martin, JJ.

Opinion by: Alok Ahuja, Judge

March 3, 2015

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